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March 24, 2008

OUR REF: 70-08/PJG/PLS

**VIA FACSIMILE – 212-805-6382**

Honorable Victor Marrero  
United States District Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street, Room 660  
New York, NY 10007

Re: Industrial Carriers Inc. v.  
Associated Bulk Carriers Ltd.  
08-Civ. 0575 (VM)  
Rule B Attachment at New York

Dear Judge Marrero,

We represent the Defendant Associated Bulk Carriers and write to advise the Court that the parties have unfortunately not been able to amiably resolve our application for counter-security. As such, we write to provide a proposed motion schedule for the Court's consideration of our application.

By way of background, when the Plaintiff filed this action, it secured an attachment under Rule B which included the principal sum of its claim, plus an allowance for its anticipated legal fees in London, the cost of the London Arbitration and interest. Our client provided security in the full amount demanded by Plaintiff, and has since made a claim back over for counter security for its claims, together with a similar allowance for fees, costs and interest.

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The Plaintiff, while acknowledging our client's right to counter security, has declined to post an amount to cover the full claim, which we have computed in essentially the same manner as Plaintiff did in its application. We understand that the Plaintiff will only post security for the principal sum of our client's claim, but refuses to cover the interest, cost and anticipated legal fees. There is no basis upon which we are aware that the Plaintiff can arbitrarily limit the scope of counter-security due on the Defendants' counter-claim.

In view of the fact that the parties have not been able to reach an agreement on the level of counter-security to be posted, we would respectfully ask permission from the Court to file our motion for counter-security. We would envision filing the motion by this Friday (March 28), and would then propose a motion schedule to track the response dates otherwise set forth in the local rules, such that opposition papers will be due on April 11 and our reply would be due on April 18. Provided this meets with the Court's approval we will proceed on this basis, and based upon our last conversation with defense counsel we understand that they would have no objection to proceeding with these dates.

We thank the Court for its attention of the foregoing.

Respectfully submitted,


FREEHILL HOGAN & MAHAR LLP

  
Peter J. Gutowski

PJG:clc

Enclosure

cc: Via Telefax  
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Request GRANTED. The briefing schedule with regard to the motion <u>for counter security</u> herein is extended as set forth herein: motion papers submitted by <u>3-28-08</u> ; response <u>4-11-08</u> ; reply <u>4-18-08</u> .	
SO ORDERED.	
<u>3-25-08</u> DATE	VICTOR MARRERO, U.S.D.J.

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